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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,000	12/09/2005	Ryoichi Matsuoka	0080-0240PUS1	4598

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EXAMINER

ROBINSON, LAUREN E

ART UNIT	PAPER NUMBER
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4174

NOTIFICATION DATE	DELIVERY MODE
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01/10/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/560,000	Applicant(s) MATSUOKA, RYOICHI	
	Examiner LAUREN E.T. ROBINSON	Art Unit 4174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

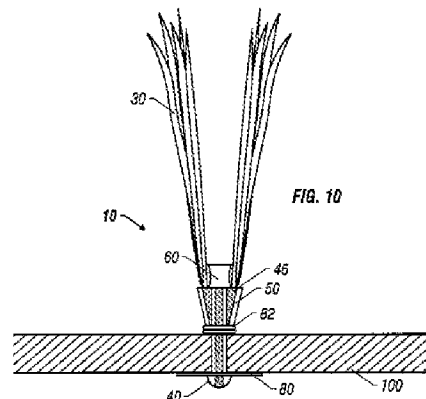
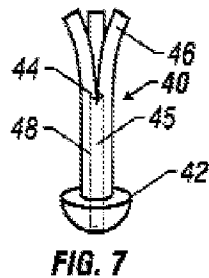
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being obvious over Sallee (US Patent No. 5976643) in view of Constantinescu (US Publication No. 2002/0113346).

3. The examiner notes that claims 8 and 11 are product by process claims and according to the MPEP 2113, while the claims are limited by and defined by the process the determination of patentability is based on the product itself and not on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process

Sallee teaches tufts of filaments or strips attached to a material (abstract) wherein the material is preferably an artificial mat-like surface taking the appearance of Astroturf® (Pg. 2, Col. 2, Par. 1), which is equivalent to the applicant's artificial lawn. Sallee also teaches that the mat-like material has a rigid plastic backing with a plurality

of grass-like appendages (Pg. 2, Col. 1, Par. 10) coated along the backing (Pg. 2, Col. 2, Par. 1). The following illustrations provide clarity.



These figures illustrate an inner rivet (40), a retaining collar (50), and a lock pin (with two ends) (60). The retaining rivet (4) includes one or more longitudinally oriented sectional slots (44) and the said slots form expandable ribs (46).

The rivet (40) also includes a surface (48) against which the strips of filaments is pressed (forcibly fit). The rivet (40) as seen on the left includes a longitudinally centrally disposed cavity (45) wherein a lock pin is extended through its entire length (Pg. 3, Col. 1, Par. 4). The reference discloses that the filaments can be placed between portions of the overall retaining anchor (Pg. 2, Col. 1, Par. 1), which in turn attaches to the base material (Pg. 3, Col. 1, Par. 3). When the locking pin is inserted (driven) it keeps the filament material in place (Pg. 4, Col. 1, Par. 1) and as seen in the illustration on the right, the pin is inserted through the center and upper portion of the filament material further parting the filament material on both sides of the retaining anchor. The examiner notes that from the illustration above, it is clearly seen that the pin is applied onto an

upper part of the root portion, parting the sides, and driven into the bottom of the rivet nearest the backing.

Furthermore, as illustrated above on the left, the rivet has a pair of guide grooves (expandable ribs) formed in the peripheral wall at positions opposing each other through the opening of said rivet. As illustrated on the right, the pin is inserted within the rivet and since the expandable ribs as illustrated on the left expand as the pin is inserted, and therefore the ribs guide the pin and specify the position of the pin (both ends) when the pin is placed through the rivet toward the bottom. Since the pin is inserted into the bottom of the rivet, the process of being driven is inherent.

Even further, since the process of driving the pin does not determine the patentability of the article, the method of which the driving occurred such as with a tool, also does not contribute to the patentability of the article. Also, if a pin is inserted and guided in a position such as with the ribs in Sallee, then whatever was used to insert the pin would have to be guided using the same ribs in order to place the pin in the specific position. For this reason, as long as the pin is in place and guided by the ribs within the article, then the article would correspond to applicant's claims 8 and 9. Therefore, since the expandable ribs within the rivet guide the pin toward the bottom of the rivet, the ribs would also guide whatever tool, hand, etc that is inserting the pin. While Sallee disclose the above teaching, Sallee **is silent with regard to the pin being bifurcate having two pin tips.**

Constantinescu discloses that U-shaped staples are a preferred fastener but other base fasteners such as nails, bolts, screws, rivets, pins, glue and equivalents

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thereof to one skilled in the art can be used to attach something to a base member (Pg. 7, Col. 1, Par. 0062).

While Sallee is silent with regard to a staple (bifurcate) being used and inserted in the rivet, Constantinescu's disclosure of equally useful fasteners including staples and pins shows that it would be obvious to one with ordinary skill in the art at the time the invention was made to substitute the pin taught by Sallee with a staple as they are equivalent fastening means. Also, since the rivet in Sallee's teaching has a cavity with peripheral walls and expanding ribs within the walls to form around and guide the fastener, then it would have been further obvious that these would encompass the staple as well.

The examiner notes that since the definition of a staple is a U-shaped thin wire that is inserted through a material and then the ends are flattened (folded back) on the other side to use as a fastening, then it would have been further obvious that if one were to use a bifurcate pin (staple) as the fastener, then the ends would be inserted through a material (go in one side and out the other) and then the ends would be folded to hold the item in place. Therefore, if the staple was used as the fastener inserted inside the rivet (root portion pot) as previously mentioned, then it would also have been obvious to one with ordinary skill in the art that the staple ends would pierce through the bottom part of the rivet (root portion pot) and then be folded back which is equivalent to applicant's claim 3.

Response to Arguments

4. Applicant's arguments filed 8 December 2007 have been fully considered but they are not persuasive.

5. *The applicant argues that Sallee and Constantinescu nowhere disclose that the base 100 has a pair of guide grooves formed in a peripheral wall part of the above discussed rivet at positions opposing to each other through the opening of the rivet for guiding both pin tips of the staple toward the bottom part of the rivet.*

This argument is not persuasive because the illustration disclosed above as well as the nonfinal office action illustrate that Salle has a pair of guide grooves (expandable ribs) formed in the peripheral wall part of the rivet having the applicant's characteristics of opposing position and capability of guiding the pin tips toward the bottom of the rivet. The applicant interpreted the previous non-final rejection concerning this attribute to be that grooves were present in the central cavity although the illustration provided in the previous rejection clearly illustrates that the grooves are the expandable ribs. Also, the applicant argues that Constantinescu uses indexing ridges and not grooves to guide the staple but the previous rejection used Sallee as the primary reference which taught that guide grooves guided and accepted the pin. Since Salle was modified to include the staple of Constantinescu, then the newly included staple would be guided and accepted by Sallee's grooves and not Constantinescu's indexing ridges.

Furthermore, the applicants argue that the entire combination of Salle and Constantinescu fail to teach that the *“said laying board having a pair of guide grooves formed in a peripheral wall part of said each root portion pot at positions opposing to*

each other through the opening of said root portion pot, the pair of guide grooves, upon the driving of said bifurcate pin member to the bottom part of said root portion, specifying drive positions of both the pin tips of said pin member and guiding a striking tool used for driving said bifurcate pin member to the bottom part of said root portion pot” as recited in claim 8. The examiner first notes that the statement that the combination fails to teach the guiding of a striking tool used for driving said bifurcate pin member to the bottom part of said root portion pot” as recited in claim 8 is moot because this limitation is in claim 10 and not claim 8.

Also, the limitations of the *“said laying board having a pair of guide grooves formed in a peripheral wall part of said each root portion pot at positions opposing to each other through the opening of said root portion pot, is taught in the illustration provided above and the previous office action. The argument that the combination fails to teach the limitation that the pair of guide grooves, upon driving of said bifurcate pin member onto the bottom part of said root portion, specifying drive positions of both the pin tips of said pin member and guiding a striking tool used for driving said bifurcate pin member to the bottom part of said root portion pot”* is not persuasive since the combination does teach the pair of guide grooves and as discussed above, once the pin is inserted (driven) the grooves specify a position for both ends of the pin toward the bottom of the root portion pot. Also, as discussed above, the limitation of the grooves guiding a striking tool used for driving said bifurcate pin member to the bottom part of said root portion pot is not persuasive since the limitation of driving is a process limitation and therefore does not determined patentability of the article, and any tool,

including a hand, for inserting (driving) the pin would be guided by the grooves in order for the pin to be placed in position.

Furthermore, the applicants argue that the combination also fails to teach the *“said laying board having a pair of guide grooves formed in a peripheral wall part of said each root portion pot at positions opposing to each other through the opening of said root portion pot, the pair of guide grooves, upon the driving of said bifurcate pin member to the bottom part of said root portion, specifying drive positions of both the pin tips of said pin member”* as recited in claim 10 and the limitation of the *pair of guide grooves used to guide a striking guide of a tool which is used for driving the pin member to be fixed to an object*. The examiner notes that the combination of the above references does teach the limitations of the *“said laying board having a pair of guide grooves formed in a peripheral wall part of said each root portion pot at positions opposing to each other through the opening of said root portion pot, the pair of guide grooves, upon the driving of said bifurcate pin member to the bottom part of said root portion,”* as discussed previously.

The applicant's argue that the limitations of the *“pair of guide grooves used to guide a striking guide of a tool which is used for driving the pin member to be fixed to an object”* is not taught by the combination as previously mentioned and therefore, the combination fails to teach the limitation of the *“pair of guide grooves, upon driving of said bifurcate pin member onto the bottom part of said root portion, ... guiding a striking tool used for driving said bifurcate pin member to the bottom part of said root portion pot”* as recited in claim 10. This argument is not persuasive since the combination does

teach the pair of guide grooves and as discussed above, once the pin is inserted (driven) the grooves specify a position for both ends of the pin toward the bottom of the root portion pot. Also, as discussed above, the limitation of the grooves guiding a striking tool used for driving said bifurcate pin member to the bottom part of said root portion pot is not persuasive since the limitation of driving is a process limitation and therefore does not determined patentability of the article, and any tool, including a hand, for inserting (driving) the pin would be guided by the grooves in order for the pin to be placed in position.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAUREN E.T. ROBINSON whose telephone number is (571)270-3474. The examiner can normally be reached on Mon. through Fri. 7:30 to 5:00 EST (First Fri Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lauren E.T. Robinson
Examiner
Art Unit 4174

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